

REMARKS**Overview**

Claims 1-45 were pending in the present application. Claims 9, 20, 22, 29, and 32-42 were withdrawn as being directed to a non-elected species. The remaining claims have been rejected.

Election/Restriction

Reconsideration of the withdrawal of claims 9, 20, 22, 29 and 32-42 is respectfully requested. The grounds are as follows.

A re-review of claim 1 indicates that it is generic to a straight pole (claim 9), generic to openings in the base and pole (claim 20), generic to a step on the base or pole (claim 22), generic to specific methodologies of slip fitting pole to base and securing base in ground (claim 29), and generic to specific method steps of how a base is moved to a hole in the ground, and installed in the ground (claims 32-42). It is therefore respectfully submitted that at least independent claim 1 is generic to the claims that have been withdrawn. It is likewise submitted to be true for independent method claim 21. It is therefore respectfully submitted that the withdrawn claims should be reinstated into the present application.

35 U.S.C. § 112 Rejections

The Examiner has objected to the use of the phrase "structural characteristics" as violating the written description requirement of § 112. This rejection is respectfully traversed and reconsideration is respectfully requested.

Original claims 43 and 44 describe "needs of a poles structure". They specifically address certain characteristics, of both pole and base, needed for elevating light fixtures in the air. The

original claims form a part of the specification. Therefore, written description exists for this claim limitation. Moreover, the test for written description is whether the specification supports the conclusion the inventor was in possession of the invention at the time of filing of the application. The Background of the Invention goes into detail regarding some of the design issues involved for this art. For example, page 8 specifically discusses how one chooses different structural components. The Summary of Invention (see specification, page 10, paragraph 2) also discusses the same. Moreover, further details in the exemplary embodiments are set forth at specification pages 22-24.

It is respectfully submitted that one of skill in the art would understand the term and that clear, explicit support for the term is found in the original specification.

35 U.S.C. § 102 Rejection

A new rejection of the claims, based on Brott U. S. Patent No. 295,905, has been raised to a variety of claims, including independent claims 1 and 44. This rejection is respectfully traversed. Brott has been carefully reviewed. Brott describes creating a telegraph pole of a special composition of materials principally made of straw pulp (page 1, line 80). The emphasis of the patent is describing a pole in the late 1800's that could replace wood poles for telegraph lines or wires. It attempts to utilize a renewable material (e.g., straw) available and economical in the western United States (where presumably wood was scarce), but also to process it to resist absorption of water. The combination includes an adhesive to adhere the straw pulp together.

A second point about Brott is as follows. Its only embodiments are either two pieces (Figures 1 and 2) or a one-piece (Figure 5). In all embodiments, what it calls base B, is made of the same material and is hollow, just like pole portion A. Note particularly the following. In

Figure 1, base B has an end inserted into the ground but it is of the same material and structure as pole A (page 1, lines 97-98). Pole A starts right at ground level. Figure 2 is somewhat equivocal, but shows a portion of the structure in the ground and a second portion A starting well above the ground. Essentially the portion in the ground and the portion above the ground are the same length and of the same material. Figure 5 is a one-piece pole of consistent material. Figure 3 shows a base B but describes it as having been "filled and packed with dirt".

Applicants' claim 1 specifically recites the base has a different structural characteristic than the pole. Additionally, the last clause of claim 1 specifically describes a combination where the base, when installed in the ground, is a connection for the pole which holds the bottom-most part of the pole above the ground. This combination allows for the following. A base that has been predesigned to support substantially a tall pole and light fixtures and resists corrosion or shifting in the ground. The joint between the pole and the base is held above the ground so that water cannot easily move through that joint into the interior of the slip-fit pole. However, the top section or portion of the base to which the pole is attached is not so tall that it requires a very tall base. As explained in Applicants' specification, the combination of claim 1 allows much easier handling of bases and installation of these bases in the ground than handling very tall components. Then, a pole can simply be seated on the base. Because the pole normally has different structural characteristics (e.g., is less dense, and may be made of a different material), the long pole with attached light fixtures can more easily be handled. Once the pole is installed, its bottom is held above the ground so that water cannot collect and then seep into the joint between the base and pole, but the base is not substantially long or above the ground such that even a forklift-type of machine can seat the pole on the base (as opposed to a crane).

These advantages are therefore submitted to be supported in claim 1, and differentiates claim 1 from Brott.

However, to advance prosecution of this application, claim 1 has been amended to further make clear its differences from Brott. First, claim 1 has been amended to make it clear that the base is a unitary piece. Secondly, it has been made clear that its structural characteristics are designed to support a pole and array of light fixtures thirty feet or higher above ground. This is a substantially high elevation of light fixtures. As supported in Applicants' specification, these poles can reach 100 feet or more in the air. Thus, the base has to have structural characteristics that allows such support. It cannot simply be a hollow straw pulp and adhesive mixture. Third, it has been made clear that the base holds the bottom of the pole a distance above the ground.

A *prima facie* case of anticipation requires that a single reference disclose all the material limitations of a claim identically or inherently as interpreted by one skilled in the art. It is respectfully submitted that a *prima facie* case of anticipation of claim 1 is not made out by Brott. It shows a base and pole of a straw pulp and adhesive mixture; the same material and characteristics. Its embodiments either show the pole right at ground level or well above ground level (i.e., in the latter example the base and the pole are the same length). Furthermore, Brott has no teaching or contemplation of elevating lighting fixtures, as required by claim 1. Therefore, it is respectfully submitted claim 1 is not anticipated by Brott.

Claims 5-6, 10-14, 16-19 are dependent from claim 1 and are therefore submitted to be allowable over the present anticipation rejection for the reasons expressed in support of claim 1. The only mention of structures to elevate are "insulators" on arms C.

Claim Rejections - 35 U.S.C. § 103

The remaining claims have been rejected as obvious based on various combinations of references. Some of those combinations cite Brott alone. Others cite Okuto (previously cited) in view of Crow U.S. Patent NO. 839,272 or Centrecon, Inc. (previously of record) in view of Okuto. These rejections are respectfully traversed for the following reasons.

As described above, Brott does not teach, suggest, or provide any motivation for the combination of Applicants' claim 1. In fact, Brott is concerned principally with creating a tubular pole that is made out of straw pulp, readily available in the "old west". The entire pole, base B and pole A, is made of the same material and the same structure. Therefore, it is substantially similar to a direct-burial pole as described in Applicants' Background of the Invention. Applicant does not claim to be the first to have created an elongated pole with a plurality of slip fit sections. Claim 1 describes a base of certain characteristics to which a pole can be slip fit. For the reasons expressed previously, Brott does not make out a *prima facie* case of obviousness because the citation of Brott alone does not teach, suggest, or provide motivation to one with ordinary skill in the art to make a combination of Applicants' claim 1.

As previously pointed out, Okuto teaches a concrete foundation 3 in the ground to which a pole 1 is mounted. This is the combination specifically described in Applicants' Background of the Invention and which the present invention improves over. The present invention does not contemplate a conventional concrete footing in the ground with molded-in bolts extending up. The present invention does not contemplate a pole that is then bolted at ground level to a ground-level footing. As described in Applicants' application, the Okuto combination allows water to get to the bolts and degrade them, compromising the structural integrity of the combination.

Therefore, Applicants respectfully traverse the Examiner's allegation at Office Action, page 4, numbered paragraph 5, that the Okuto base has an upper portion that extends above the ground. This is simply not supported by any reasonable interpretation of Okuto. As shown in the figures, base 3 extends only to ground level. It is described by Okuto at column 2, line 37 as "foundation 3". The pole is described as a "plurality of steel tubes 1". It is therefore inappropriate to interpret member 3 of Okuto as a part of the base. To make this distinction clearer, however, the Applicants' independent claims have been amended to include the description of the base as being a unitary member. This specifically distinguishes and makes clear the differentiation from the claimed invention and Okuto.

The Examiner also admits that Okuto does not teach elevation of light fixtures. The Examiner combines Okuto with Crow, alleging that Crow does teach an array of pre-aimed light fixtures 18 (see Office Action, page 5, first partial paragraph). Crow has been carefully considered. Members 18 are specifically described as "insulator supports 18", (Crow page 1, lines 81-82), for insulators for suspending electrical wires. It is therefore respectfully submitted that Okuto and Crow do not present a *prima facie* case of obviousness of the claims listed at Office Action, page 4, numbered paragraph 5.

It is pointed out a further reason the combination of Okuto and Crow does not present a *prima facie* case is that Okuto specifically teaches pole sections all of the same makeup. Okuto's tubular section 3 has a concrete outer section 1. Each of the sections are connectable together by threadable junctions between succeeding sections. This is not a slip-fit and it is not a situation where the base has the characteristics of Applicants' claims.

It is respectfully submitted a *prima facie* case of obviousness is also not made out by the combination of the Centrecon brochures and Okuto, as previously pointed out. Centrecon has

two embodiments. One is a direct burial concrete pole where a first section extends about halfway up and a second section extends the rest of the way. The second embodiment has a long concrete direct burial section and then a shorter tubular steel top section. The only thing Centrecon adds to Okuto is it does show light fixtures at the top. The Applicants' invention goes in a different direction than having a very long heavy concrete section that first must be inserted and plumbed into the ground. Applicants' independent claims specifically differentiate from this, describing a base which can be inserted into the ground to support a tall pole, but do not require the equipment or steps to move, erect, and plumb a large heavy concrete section or the entire pole. Thus, again, it is respectfully submitted Applicants' claims are not *prima facie* obvious based on a combination of Centrecon and Okuto.

Applicant has tried to advance prosecution of this application by adding clarifying amendments to the independent claims. It is respectfully submitted these meet the Examiner's comments at pages 9 and 10 of the Office Action.

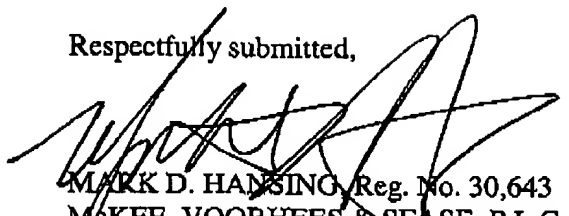
Conclusion

It is respectfully submitted that all matters raised in the present Office Action have been addressed and remedied and that the application is in form for allowance.

This is a request to extend the period for filing a response in the above-identified application for three months from December 14, 2004 to March 14, 2005. Applicant is a large entity; therefore, please charge Deposit Account number 26-0084 in the amount of \$1,020.00 to cover the cost of the one month extension. Any deficiency or overpayment should be charged or credited to Deposit Account 26-0084.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,



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